

# Ex-Mafia Member Sues U.S.

## Failed to Get New Identity, Home, Suit Says

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Gerald (Chicken) Festa, a former member of the Gambino Mafia family, filed a \$4.5 million suit against the Justice Department yesterday, charging that its controversial witness protection has ruined his life.

Festa, 50, said the government promised him a new identity, a new home and a new life in exchange for the five years he spent as a "protected witness," testifying against 60 former associates in organized crime.

Now, Festa charged, he and his family are living on welfare in Anne Arundel County, with no job, no new home, and, he added, no protection against the Mafia, which he contends has put a \$250,000 price tag on his murder.

"The government has used me up, thrown me

away, and left me with nothing," said Festa, who in his earlier life with organized crime lived luxuriously in a 13-room home in New Wark, N.J., where he lavished his life with a collection of jewelry and furs and had his choice of four sleek automobiles.

"Now I can't get a job, I have no money, no insurance, no nothing—not even a birth certificate. It's all because I listened to what the government promised me."

In the lawsuit filed yesterday by his attorney, Paul M. Nussbaum, at the U.S. Court of Claims in Washington, Festa charged that the Justice Department's elaborate, multimillion dollar program to protect witnesses in sensitive cases and provide them with new identities had in fact cheated him out of what he was promised and ruined the lives of his wife and five children.

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## Promises Cited

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Government officials would comment on Festa's allegations or his role in the witness program.

"All I want is to get what I was promised two years ago—my home, a job, my old possessions and catch-up education for my children," Festa said in an interview. "I want the publicity because I want people like me to understand that this program is a mistake. It was the biggest mistake I ever made."

Festa is not the first former witness to complain about the protection program. Operated by the U.S. marshal's office since 1970, the program, which cost the government \$11.3 million last year, has been the subject of investigations by the Justice Department and a Congressional subcommittee.

A Senate subcommittee found last year that the protection program served a good purpose, but that security measures sometimes were inadequate, and marshals were inadequately trained to properly help the 3,100 witnesses who have joined the program.

A U.S. grand jury also investigated charges in 1977 of corruption among marshals who supervised the program in the Newark area, where Festa en-

listed. No indictments were returned in the case, but several officials in the Newark program eventually resigned.

"There have been problems in the program, as any program has over the years," said U.S. Marshals Service spokesman Bill Dempsey yesterday. "But we have been acting on the suggestions of the subcommittee, and we have beefed up the program."

It was because he cooperated in the investigations of the marshals service and the protection program, Festa now contends, that he has been denied many of the rewards he says he originally was promised by federal authorities.

Festa said he joined the program in 1974, after he was arrested along with two other men for the murder of a 19-year-old man who helped with an armed robbery all four men participated in.

By that time, Festa said, he had worked for three different organized crime bosses over a period of seven years as part of Gambino's New York-based organization. "I did everything," he said. "Arson, burglary, extortion, armed robbery."

"I was part of a big organization in Newark," Festa said. "We had the police, we had the prosecutors, we had everybody. I don't want you to get me wrong, but from where I come from in the street, I know that if the government ran its programs as well as we did, they wouldn't have any of these problems."

Festa now says that he was not responsible for the murder he was accused of but decided to accept the government's offer to become a witness because "the word had gotten out that I might be a weak link, and they were going to kill me and my family."

And so, in February 1974, Festa enrolled himself, his family, and his sister in the Witness Protection program. His family was ordered never to return to their home in Newark, never to make calls to old friends or relations, and never to go anywhere without supervision. Meanwhile, the murder charges

against Festa were dropped.

Over the next five years, Festa's family was shuttled to nine different locations in nine states, each time under false identities. The rent at their various homes was paid by the government, and they were given free medical treatment and subsistence payments ranging from \$750 to \$902, according to Festa's suit.

For those years, Festa was too busy testifying for the government to see much of his family. "They were in North Dakota for three months and I never saw them," he said. "Later I found out that they were sleeping on the floor there, with no furniture, no nothing, not even a teaspoon."

Festa said that the constant moves prevented his oldest daughter from finishing school and disrupted the education of his other children. And his suit alleges that the government did not tell his wife about a medical diagnosis it had showing that she had symptoms of cancer.

According to Festa's suit, his wife was hospitalized in Boston in 1974, but was forced to leave the city in one of the family's moves before her test results were complete. The results indicating cancer later were forwarded to federal authorities in Washington, who told Rose Marie Fester only that she might have pulmonary fibrosis.

Rose Marie later was diagnosed as having cancer and was forced to have an operation last May, after the government had cut off its assistance to the family, the suit alleges.

Festa also claims that in May 1978, federal authorities told him they were ready to give him his new home and identity, and flew him to Ossineke, Michigan, where he picked out a \$69,000 brick home.

Festa said he picked out a small diner in that town that the government agreed to buy for him, to replace the "Chicken Delight" business he owned in Newark that gave him his nickname.

But after making a downpayment of \$2,000 on the house and providing his family with an identity as the "Rossis," Festa claimed, the witness protection officials suddenly informed him that they could buy neither the house nor the restaurant for him.

Festa said he obtained his current house in suburban Maryland through a federal subsidy after he was informed that he had been "terminated" from the witness program last February. He claims the only help the government gave him was a check for \$24,000 to replace \$100,000 in furniture from his old home. Festa said the government lost his old furniture.

Still missing, Festa said, are all his other old possessions, including the equipment from his chicken restaurant, his family's clothing, and his cars.

"I'm not proud of what I did," Festa said. "But I dealt with the government, I held up my end of the deal. They talked with a forked tongue."

"The fact is that I have been punished more by becoming a federal witness than if I had gone to jail," Festa said.

Now, Festa said, he has no way of getting a job because he cannot explain to potential employers what he has been doing for the past five years. His children, he said, have trouble because the government has not given them adequate documents for their new, assumed identities. And he said he feared that his own life is in more danger than ever before.

"Maybe it would be the best thing if they came and killed me," Festa said. "All I care about at this point is my family; I want them to be able to survive."

Witness Protection Program spokesman Dempsey said yesterday that the government has been sued by "less than 20" other former witnesses, but that none of the previous claims had been successful.

"Some of the witnesses will file cases to push their own causes after their assistance has been cut off," Dempsey said. "But there comes a point when we can't find them anymore."