

[REDACTED]

Subject: Availability of Civil Remedies - Crime Victims Rights Act Suit, Jane Does 1 and 2 [REDACTED] United States

Date: Tue, 17 Jan 2012 15:51:34 +0000

Importance: Normal

Attachments: 127_pet_opp_MTD.pdf

[REDACTED]

In July 2008, two victims of Jeffrey Epstein filed an action under the Crime Victims Rights Act (CVRA), claiming they were entitled to be consulted before the U.S. Attorney's Office entered into a non-prosecution agreement with Epstein in September 2007. The case was assigned to me, and I filed an initial response to the petition, arguing that the CVRA did not apply because Epstein had never been formally charged in federal court. I also appeared in a hearing on July 11, 2008, before Judge Marra.

The case was inactive for several years, the victims being content to litigate their civil damage claims against Epstein. In mid-2010, the case became active again, and Paul Cassell, a former federal judge from Utah, and victims' rights advocate, entered his appearance on behalf of the victims. We first litigated the issue of whether CVRA rights apply in the absence of a formal federal criminal charge. On September 26, 2011, Judge Marra issued an order finding that the CVRA can apply before formal charges are filed.

The next phase of the litigation is whether the government used its best efforts to comply with the CVRA, and if it did not, what the remedy would be. We have always argued that the Court had no authority to set aside the non-prosecution agreement because such agreements, unlike plea agreements, do not come before the Court for approval. The Court allowed the victims to engage in limited discovery, to include requests for production and requests for admissions. The government has been served with both.

The government filed a motion to dismiss based on lack of standing, arguing that the alleged CVRA violation was not redressable. The victims have responded with a lengthy opposition, including a listing of remedies they claim are available to them (pages 14-15). [REDACTED] prepared the motion to dismiss for lack of standing. He needs assistance from someone in the Civil Division to specifically address the issue of the availability of remedies specified by the victims. I have attached the victims' response to our motion to dismiss, which includes the listing of remedies.

Our response is due on Tuesday, January 24, and we are on our second extension of time. My trial in [REDACTED] United States will begin on Monday, January 23, so I don't have much time to devote to this other litigation. Can you assign someone to assist [REDACTED] on the issue of the availability of civil remedies? Thanks.

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